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L. A. Bill No. 12 of 1964.

NOTIFICATION

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The following Bill together with the Statement of Objects and Reasons, is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum.

D. TIRUMALAI,
Secretary,
Legislative Assembly.

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L. A. Bill No. 12 of 1964.

THE KERALA WEIGHTS AND MEASURES (ENFORCEMENT) AMENDMENT BILL, 1964.

A

BILL

further to amend the Kerala Weights and Measures (Enforcement) Act, 1958.

Preamble.—WHEREAS it is expedient further to amend the Kerala Weights and Measures (Enforcement) Act, 1958, for the purposes hereinafter appearing;

BE it enacted in the Fifteenth Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Kerala Weights and Measures (Enforcement) Amendment Act, 1964.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. **Amendment of section 2.**—In section 2 of the Kerala Weights and Measures (Enforcement) Act, 1958 (Act 45 of 1958), hereinafter referred to as the principal Act, after clause (i), the following clause shall be inserted, namely:—

"(ii) "use in transaction for trade or commerce" means use for the purpose of determination or declaration of the quantity of anything in terms of measurement of length, area, volume, capacity or weight in relation to—

(i) any contract, whether by way of sale, exchange or otherwise; or

(ii) any payment, whether by way of royalty, toll, duty or any other dues connected with or forming part of such transaction;".

3. **Amendment of section 3.**—In section 3 of the principal Act,—

(i) in sub-section (1), the words "and special sets of working standards in relation to bullion and precious stones may also be prepared" shall be omitted;

(ii) in sub-section (4), the proviso shall be omitted.

4. **Amendment of section 7.**—In section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in any other law or any custom, usage or practice, no unit of mass or measure, other than the standard weights or measures, shall be used in any transaction for trade or commerce in any area or class of goods or undertakings in respect of which this Act has come into force or be kept in any premises where such transactions are usually conducted.".

5. **Amendment of section 14.**—In section 14 of the principal Act,—

(i) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(ii) before the proviso, the following proviso shall be inserted, namely:—

"Provided that the Government may, if they are satisfied that the size of any class of such packages or containers renders it impracticable to comply with the provisions of this section, by notification in the Gazette, exempt such class of packages or containers from the operations of this section.".

6. **Amendment of section 23.**—In section 23 of the principal Act, after the words "other than one of the standard weights or measures", the words, brackets and figures "or whoever after the commencement of the Kerala Weights and Measures (Enforcement) Amendment Act, 1964, keeps any unit of mass or measure other than the standard weights or measures in any premises where such transactions are usually conducted" shall be inserted.

7. **Insertion of new section 37A.**—After section 37 of the principal Act, the following section shall be inserted, namely:—

"37A. **Composition of offences.**—(1) Any offence punishable under section 23, section 24, section 25, section 27, section 28, section 32 or section 34, other than a second or a subsequent offence under section 23 or section 25, may, either before or after the institution of the prosecution, be compounded by the Controller on payment of such sum as the Controller thinks fit.

(2) On payment by the offender of such sum, the offender, if in custody, shall be set at liberty and, if any proceedings in any criminal court have been instituted against the offender in respect of the offence, the composition shall be deemed to amount to an acquittal, and no further criminal proceedings shall be taken against him in respect of such offence.".

8. **Insertion of new section 43A.**—After section 43 of the principal Act, the following section shall be inserted, namely:—

"43A. **Exemption.**—Nothing in this Act shall apply to weights or measures or weighing or measuring instruments used by or in any unit or establishment of the Armed Forces of the Union.".

STATEMENT OF OBJECTS AND REASONS

The Kerala Weights and Measures (Enforcement) Act, 1958, applies to weights and measures used in transactions for trade or commerce, but does not define the term "use in transaction for trade or commerce". It is, therefore, considered necessary to insert an appropriate definition of the term in the Act.

Section 3(1) of the Act provides that special sets of working standards in relation to bullion and precious stones may also be prepared. Under the proviso to section 3(4), a special working standard in relation to bullion and precious stones shall be verified with the reference standard. Experience of the woking of the Act has shown that it is neither necessary nor possible to provide special working standards for bullion and precious stones. Therefore; the provisions relating to special working standards in sub-sections (1) and (4) of section 3 are proposed to be omitted.

While the Act prohibits tbe use of non-standard weights and measures, their possession has not been declared an offence. Experience has shown that it is necessary to penalise possession of non-standard weights and measures in premises where transactions for trade or commerce are usually conducted.

The Act requires the net weight or measure of the contents to be marked on every sealed pakage offered for sale. There are instances where it is impracticable to mark the contents on very small packages. The verification of the net weights or measures of such packages also presents difficulties. It is therefore considered necessary to empower the Government to exempt small packages from marking.

Experience of the working of the Act has also shown the need to give the Controller the power to compound minor offences. It is therefore proposed to avail of this opportunity to provide for the compounding of such offences.

It is also considered necessary to exempt the weights, measures and instruments used by the Armed Forces from the provisions of the Act.

The Bill is intended to achieve the above objects.

T. A. THOMMAN.